

**LELAND TOWNSHIP PLANNING COMMISSION**  
**Wednesday, February 2, 2022**  
**Leland Township Library, Munnecke Room**  
**203 East Cedar Street, Leland, MI 49654**

I. Call Meeting to Order/Pledge of Allegiance

Chairman Korson called the meeting to order at 7:05 p.m. with the Pledge of Allegiance.

Present: Dan Korson, Chairperson; Clint Mitchell, Township Board Rep; Sam Simpson, Secretary; Skip Telgard, Vice Chairperson

Absent: Ross Satterwhite, ZBA Rep

Staff Present: Tim Cypher, Zoning Administrator; Larry Sullivan, Planner; Allison Hubley-Patterson, Recording Secretary

Guests: Bo White, Special Land Use Applicant; Steve and Linda Oosse, Special Land Use Applicants.

There were 20 members from the public in attendance.

II. Motion to Approve Agenda

Chairman Korson asked for a motion to approve the February agenda. Telgard moved to approve the February agenda as presented; Simpson seconded. **All present in favor, motion carried.**

III. Declaration of Potential Conflicts of Interest – None reported at this time.

IV. Approval of Minutes

Chairman Korson asked for a motion to approve the January minutes. Simpson moved to approve the January 5, 2022 minutes as presented; Mitchell seconded. **All present in favor, motion carried.**

V. Public Comment (three minutes per person unless extended by Chairperson)  
– The following comments were made by members of the general public regarding the special land use permit for the proposed dog kennel filed by Steve and Linda Oosse.

1. Janet and John Metevia – Ms. Metevia stated that they reside on French Road. They object to the proposed dog kennel due to concerns regarding

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noise, contamination in the stream and a possible negative impact on home values in the surrounding area.

2. Al Aiken – Mr. Aiken is a year-round resident on E. Ryans Way; he has some neighbors who are seasonal residents. Seven out of ten neighbors asked him to voice their opposition to 45 dogs at the proposed kennel.
3. Bob Biggs is a builder who represents a client building a home on Baxter. He also represents John Morris, another client who has a 24-acre parcel. Both clients are concerned about the possible noise that will stem from 45 dogs at the kennel. Mr. Morris' greatest concern is how the noise level will be controlled. Objections noted.
4. Kate and Jim Fisher – The Fishers reside at 5787 East Duck Lake Road and stated they have read the zoning ordinance; they oppose the special land permit. They are primarily concerned with the noise from 45 dogs, and traffic congestion as many walkers travel this road and increased traffic may be unsafe for pedestrians.

## VI. Reports

**Township Board Rep:** Mitchell reported that the Township renewed their contract with the Cypher Group, Inc. for four years. The outdoor patio at Dick's Pour House has been approved.

**ZBA Rep:** Cypher reported that there are no issues pending.

## VII. New Business

1. Special Land Use Application – Bo White (private airstrip)

A special land use application was filed by Bo White for a private air strip on his property; this use is allowed under the zoning ordinance. Cypher stated that he has worked with Mr. White for many years, including when he purchased Dune Bird Winery.

1. Presentation by Applicant

Mr. White made a brief presentation and shared that he owns a 1958 Piper Pacer airplane with a 160-horsepower engine; this is a small, single engine plane. The plane is currently housed approximately two miles from Mr. White's property. The proposed airstrip will only be used by Mr. White and will not be charted. Other pilots will not know the airstrip exists if it is not charted and thus cannot land at a private airstrip. The advantage to charting is that Mr. White can enter notes in the app so that other pilots know that access is not permitted. Access is always permitted in certain situations; for example, if an airplane mechanic needs to fly in to service Mr. White's plane. Mr. White's property includes a large field to accommodate take-off and landing; a barn exists on the property where

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the airplane will be stored. There will be noise upon takeoff for approximately 28 seconds; Mr. White indicated that the noise is similar to that of a lawn mower. Mr. White understands the zoning ordinance and indicated that he flies approximately two times per month.

### 2. Review Correspondence Regarding Application with Staff

Cypher stated that Mr. White's application is complete; he has supplied the required information and a letter from the Federal Aviation Administration (FAA). In the future, if Mr. White decides to chart the airstrip, Cypher has the discretion to bring the issue back to the PC for consideration.

### 3. PC Questions/Discussion with Applicant

Simpson asked about the approach. Mr. White responded that at 500 feet elevation he would be 1,500 out from the airstrip. He is able to meet the required 3 to 1 glide ratio as required by FAA. Takeoff direction is based on wind direction but the predominant winds are north/south.

Mitchell resides near an airstrip on Alpers Road. He stated that he only sees a plane periodically but cannot hear any noise.

The area in question is not densely populated. The land to the northwest of Mr. White's property is owned by The Leelanau Conservancy.

### 4. Public Comment (limited to three minutes per person unless extended by Chair) – no public comment

### 5. Applicant's Response to Public Comment – not applicable

### 6. PC Discussion with Staff

Cypher suggested setting the Public Hearing for next month and extending the notice of 300 feet to additional residences. The PC members authorized Cypher to extend the required notice to cover a certain geographic area. Cypher determined that area to be approximately 3,000 feet.

Chairman Korson made a motion to have the Public Hearing at the March meeting with the 3,000 ft. radius to cover the south side of Kolarik to the west side of Eagle Highway. Simpson seconded. **All present in favor, motion carried.**

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Chairman Korson made a motion to waive the site plan required by the Planning Commission for continuation of the airstrip per section 6.03B of the zoning ordinance. Mitchell seconded. **All present in favor, motion carried.**

### 2. Public Hearing - Special Land Use Application – Steve and Linda Oosse (dog kennel)

A special land use application was filed by Steve and Linda Oosse for a dog kennel at 210 North Popp Road in Lake Leelanau.

#### 1. Presentation by Applicant

Ms. Oosse made a presentation to the PC and members of the general public which included visual aids. The application is for 45 dogs; however, it was noted that it will take time to build up the business to this point. To begin, they anticipate three to six dogs. Ms. Oosse read the definition of a “kennel” and this includes dogs that are boarded overnight on the premises as well as dogs attending daily for dog day care. Per Ms. Oosse, according to Leelanau County animal control officer, Deputy Wayne Kalchik, there is no difference between day care and boarding services. Licenses are required for all dogs. If the owner does not provide a license, one will be secured on the dog while it is on the kennel property. Aggressive dogs will not be tolerated and will be asked to leave.

There will be 11 permanent kennels in total for overnight boarding with a maximum of two dogs to a kennel; dogs from the same family may be boarded together but not if they are from different families. Crates will be used for daycare services as opposed to kennels. Assuming a maximum count of 45 dogs minus 11 kennels needed for overnight boarding, 34 crates will be needed. Kennels vary in size and include 4x5, 4x6 and 4x8 structures.

The kennel will operate from approximately 7:00 a.m. to 6:00 p.m. for day care services. From 10:00 p.m. to 7:00 a.m., all dogs boarded overnight will be inside the kennel. The building will be insulated to form a sound barrier. Waste will be disposed of according to township requirements; all other state and local requirements will be complied with as well. The business will be accessed from North Popp Road and the animal control officer will oversee the business. Ms. Oosse stated that they have received a soil erosion permit and there will be no negative effect on the creek. An application for placement of the septic system and drain field has also been filed. There will be a turnaround area for trucks. For dog day care services, cars may come and go throughout the day; they anticipate no more than three cars between the hours of 7:00 a.m. and 8:00 a.m. and the same car volume between 8:30 a.m. and 9:00 a.m. The

business will be known as “JC’s Oasis” and will provide employment opportunities to the community, including veterans and youth. The business will provide a source of income as their 16-year-old son with Down Syndrome grows into adulthood.

Ms. Oosse addressed concern from written correspondence that construction has already started on this project. This is inaccurate; the construction is at the intersection of 204 Duck Lake Road and North Popp Road and is a horse barn; this is not for the kennel that is being proposed by the Oosse family. The Oosse home sits back from the road and the proposed kennel will also sit back approximately 330 feet from North Popp Road. It will not be seen from the road and there are also wetlands and a marsh on the premises. There is a septic system and a private well on the property. In total, the Oosse property is a 26-acre homestead; the kennel building will be less than 10,000 square feet. There will be a six-foot privacy fence near the kennels for noise mitigation. There are hundreds of feet of woods on three sides of the proposed building.

Ms. Oosse stated that they anticipate one to four employees to begin, depending on the number of dogs boarding per day. There will be an outdoor play area. The driveway will meet the code requirements and Fire Department codes will be adhered to as well. GFL Environmental, Inc. (waste management) will remove trash one time per week. There will be a sign out by the road measuring approximately 4 ft. x 5 ft. which will face 204 East Duck Lake Road. Lighting used will be according to night sky guidelines.

The Oosse family plans to keep the existing landscape intact; they do not wish to do any clear-cutting. Sentence deleted here regarding the culvert on the property (I will delete this language, too, in the final version).

If the special land use application is approved, they plan to break ground in the spring.

## 2. Review Correspondence Regarding Application with Staff

Cypher noted that a total of 31 letters were received from members of the public; 12 letters were in support of the dog kennel and 19 letters were in opposition to the project. **Are these numbers “in support” and “opposed” correct?** Concerns cited by those opposed to the kennel included: noise, odors, traffic, escaping dogs, and the kennel structure being closer to the neighbors’ homes than to the Oosse residence. Correspondence received from an attorney noted that dog day care is not in the ordinance; however, the ordinance does permit “boarding on a temporary basis”.

### 3. PC Questions/Discussion with Applicant

Simpson requested that the correspondence from Ross Satterwhite be read; the letter was not read but was discussed. Cypher told members of the public that Satterwhite was absent but his correspondence is treated like that of any other received from a member of the public. Simpson stated that his greatest concern is with noise and the number (45 dogs). Discussion ensued as to whether the Oosse family would accept a cap of 35 to 40 dogs or should this be lowered further to ten dogs. It is recognized that lowering the cap to ten dogs may not be economically feasible.

Ms. Oosse indicated that there would be a possibility of a maximum of 25 dogs staying for one 24-hour period and reiterated that these dogs would be inside the kennel between the hours of 10:00 p.m. and 7:00 a.m. per local ordinance. There will be no overnight crating of dogs. Per Ms. Oosse, according to Deputy Wayne Kalchik, the terms “daycare” and “boarding” are the same. The requirement is that a dog must be able to stand up and move around in a circle inside the crate or kennel. Ms. Oosse stated that they plan to house animals for overnight boarding in a humane manner that would exceed the requirements imposed by the State of Michigan.

The proposed builder has indicated that there are many viable options for noise mitigation. The kennel will be on a cement slab with a sloped epoxy-sealed floor. Walls in the dog day care area will be four feet high and the back wall will be six feet high. Poured concrete will be used and a stick built structure will top the cement to a ten foot ceiling.

Ms. Oosse contacted four kennels in the local area. Wiggle Butts and Waggin Tails stated they have had no complaints for sound or smell; this business can accommodate up to 24 dogs for overnight boarding and up to 30 dogs for day care. Aunt Tara’s, at the intersection of M-72 and Gray Road can accommodate up to 30 dogs and has received no complaints for sound or smell. SunDog Boarding Kennel in Bingham Township existed prior to the ordinance so this business has been grandfathered in. Another kennel was mentioned by Simpson which has existed in Leland Township. A grandfathered status may apply to them. Ms. Oosse also contacted two kennels in Grand Traverse County; one kennel stated that in 40 years of doing business, they have had some complaints for sound.

Simpson inquired if there are any concerns about dogs being outside until 10:00 p.m. as this is very late for some people. Ms. Oosse stated that the dogs will be in and out up until 10:00 p.m. Simpson stated that this could be a possible condition placed on the special land use permit.

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Telgard stated that he recently read about indoor treatment; a lot of noise can come from inside the kennel building. He suggested that soundproof panels be placed on the ceiling to reduce noise. Ms. Oosse indicated that this could be done and that the ceiling will be 10 feet high.

Simpson stated that approval for the special permit must transfer to the new owner if the property is sold. If stipulations are placed on the permit, the new owner must abide by these conditions.

Ms. Oosse discussed her family and shared information about her husband and son. Chairman Korson reminded Ms. Oosse that the Planning Commission is required to consider the special land use application from a Board perspective and must take a more objective approach.

Cypher stated that the dog runs must be shown on the site plan. This is also true for any fenced areas for the dogs as well as the location of the chain link fences. Ms. Oosse informed the group that there will be a secondary fence in case any dog should jump the primary fence. The total fenced acreage will be no more than three to five acres.

Simpson inquired if a sound barrier could also exist in the front of the property. Ms. Oosse reported that all immediate neighbors approve of the proposed dog kennel. Chairman Korson added that Satterwhite's letter stated that during the course of his own investigation of dog kennels, earmuffs were often required to minimize noise inside the building. Chairman Korson asked Cypher what would happen if a complaint is received. Would this result in fines or possible suspension of the business license? Under the nuisance complaint criteria, Cypher stated that discontinuation of use could result, if warranted; the business owners would also appear before the Township Board. Cypher stated there are several steps in this process but nuisance is difficult to prove if no standards exist. Cypher also suggested that a sound engineering study be ordered to determine the ambient noise level in the immediate area and to record a baseline. A sound engineer could also establish the decibel level.

Mitchell reached out to a local dog kennel and stated that an area zoned for commercial/light industrial would be a better location for a dog kennel due to noise and other factors. Mitchell also expressed concern with proximity to the lake. If one or more dogs from the kennel begin to bark, this sound will travel across the lake and other dogs from nearby properties will begin barking. Chairman Korson made the point that the concern is not how loud the barking is, but how steady it is and the duration. Ms. Oosse stated that if there are any issues stemming from barking or any other concerns, they want to be notified. There will be a video surveillance system on site. There is no law preventing the business

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owners from leaving the premises for a period of time but they do not plan to leave while the dogs are in their custody. An app also exists which allows the business owner to see the dogs on video and, if bad behavior is exhibited, the owner can speak to the dog. Mitchell stated that on page 11, item #4 of the ordinance, there is language regarding "habitual barking"; he does not see how this can be prevented by the owners of the proposed dog kennel.

Sullivan stated that a special land use permit for a dog kennel is allowed in district but this does not mean that it is allowed anywhere in the district. This is the opposite of agriculture which is allowed anywhere in district. He also noted that agriculture can be highly industrial due to the use of pesticides, harvesting equipment, etc.; these things result in noxious odors and also create noise.

Sullivan also inquired about how the kennel building will be ventilated. Depending on what material is used, sound could escape from the area. Ms. Oosse stated that there will be heating and cooling split units to control the interior temperature; however, some windows could be opened. This will cause sound to escape as well.

4. Public Comment (limited to three minutes per person unless extended by Chair) – Chairman Korson asked the public to make comments rather than asking questions.
  1. Janet and John Metevia – Ms. Metevia stated that although they hear other noises such as boats, etc., they cannot imagine the noise from dogs at the proposed kennel. Objection noted.
  2. Amber Coutier resides on Duck Lake Road. She is concerned about how the problem with coyotes and bears will be addressed.
  3. Al Aiken – stated that he lives in a residential area. He asked if this should be a commercial enterprise because the Oosse family will make money from this endeavor. He stated that on a quiet night, he can hear voices from across the lake. Objection noted.
  4. Stephanie Peplinski – Ms. Peplinski's household is comprised of two parents who work fulltime and have young children. They have used several dog day care facilities and she stated that she does not hear dogs in the kennel building. The owners typically meet the dog when it arrives. She expressed that change can be uncomfortable but that Ms. Oosse is not looking to deter from the aesthetics of the community. She feels that families are in need of this service and Ms. Oosse is willing to work within certain parameters, as required. Approval noted.
  5. Wayne Wunderlich - Mr. Wunderlich resides on East Ryans Way. He expressed concern over the coyotes in the area and stated that



when an animal walked in the yard and dogs bark, it can take up to 15 minutes to calm them down. He can understand both sides of the argument but believes that resolving the anticipated noise problem will be an issue.

6. Bill and Susan Wright – Mr. Wright submitted a letter stating that Steve and Linda Oosse purchased the property from him. At the time of sale, he was aware of their intention for the property.

#### 5. Applicant's Response to Public Comment

Ms. Oosse responded to the various comments shared by members of the public. If a dog tries to escape from the property, the double fence system will prevent this from happening. The Oosse family also raises chickens; they are aware that coyotes will always be in the surrounding area. The kennel building will be constructed to meet all codes so the structure does not have a smell. Overall, JC's Oasis will provide an unmet need to the community.

#### 6. PC Discussion with Staff

Chairman Korson expressed his concern if there is nobody on site at all times (24x7). He reiterated his concern over the steady barking, not just loud barking.

Simpson asked Cypher about the nuisance law in relation to possible loss of usage on the property. Simpson envisions several conditions to be placed on the permit, if approved. Cypher stated that there could be a loss of use due to public outcry regarding confirmed nuisance complaints. A complaint must be registered and thoroughly investigated but this is not necessarily a strike against the business owner. He confirmed that there is risk in any special land use permit. Nuisances are civil infractions and must be remedied; ultimately, the courts will make the final determination.

Simpson stated that standards could be set so that if the nuisance is excessive, we can pull this back; it would be important that the next owner of the property understand this condition. Simpson stated that the PC needs assistance in setting the standards and Ms. Oosse must understand the risk before proceeding.

Cypher stated that there is an administrative process for appeal; an appeal would go through the Zoning Board of Appeals. Section 16.15 of the ordinance discusses special conditions for kennels.

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Cypher reiterated that the final plans must reflect the dog runs and fenced areas per section 6.03B. Anything that is pertinent to the outside layout must be shown on the site plan. All PC members agreed to a waiver on the topographic map. According to section 6.03B5, the number of dogs allowed is one of the most important items for consideration; this was skipped for the time being.

Chairman Korson, Mitchell and Simpson engaged in discussion about the business operating with approximately 10 to 15 dogs to start, or possibly 35 to 40 dogs. It was stated that even 35 to 40 dogs seems like too many. Cypher stated that he and legal counsel would provide guidance to the PC but will not make the final determination to allow (or not allow) a certain number of dogs. Simpson stated that the PC must do its job to set very clear parameters. Cypher agreed that having standards will help immensely; standards must be defensible and the PC will require legal advice to help with the enforcement aspect. Legal counsel could assist us by clarifying key items; for example, the legal definition of the word "habitual". This is important when setting the standards.

Mitchell reiterated his concern that if habitual is prohibited under the ordinance, what will happen if habitual barking occurs. He believes that we are attempting to make something fit the ordinance that does not fit. Chairman Korson asked what would be the appropriate number of dogs. Mitchell again expressed that this proposed project does not fit into the ordinance. The PC agreed to skip section 6.03B5 for the time being.

According to section 6.03B7, the business owners must meet all conditions set forth by the Leelanau County Road Commission (LCRC).

According to section 6.03B8, the PC will require detailed information regarding utilities and the Drain Commissioner must be aware of the conditions placed on the business.

Regarding section 6.03B9 (Odor), dog excrement will be double-bagged and will then be placed into large plastic totes. Chairman Korson inquired about a chemical that could be used to prevent odor. Ms. Oosse stated that they are not opposed to this but kennels that they spoke to during the research phase of this project stated they do not use chemicals. Sullivan suggested that lime could be used. Simpson stated that due to the large parcel of land on which the kennel

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would sit, there probably is no drift. Trash receptables will be kept close to the kennel building.

Section 6.03.B10 - a condition that the project signage will meet the Township's zoning ordinance requirements will be required.

Section 6.03B11 - all lighting will comply with the night sky requirements. A waiver is not needed according to Cypher.

Section 6.03B12 - a waiver could be considered. Sullivan stated that fencing will not reduce sound; soft wood trees will help minimize sound. Cypher, and Sullivan, and legal counsel will prepare a set of standards for review at the next PC meeting.

Section 6.03B16 - construction was to begin in the spring; however, Chairman Korson informed the applicants that there would not be a final decision at tonight's meeting as the PC is not ready to vote on this matter. Cypher reminded the group that, under a special land use application, the project must commence within one year. Authorization may be required if there are major changes to the scope of the project.

Section 6.03B19 – this item will be revisited as a revised site plan must be submitted.

Section 6.05A - this standard will be tied in with others that still require discussion.

Section 6.05B – Cypher and Sullivan will review the recommendations prior to the next meeting.

Section 6.05D – the PC will impose a condition on this item. Sound study required.

Section 6.05F – final approval is required from the LCRC.

Section 6.05G – a pedestrian circulation system is not required as this is a private facility.

Section 6.05H – additional requirements will need to be met and night sky guidelines must be followed.

Section 6.05I – this item will be critical to the Fire Department. Cypher noted that a fire suppression system requires 30,000 to 50,000 gallons

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of water. For this condition, the approval of the Fire Chief would be needed.

Section 6.05O – Ms. Oosse stated that dog excrement would be picked up immediately whether the dogs are inside the kennel building or outside in the fenced area. There will be four floor drains in the kennel building, all of which go directly into the septic tank. It was noted that this could be a condition that is assigned.

Section 16.01 – General Standards – the PC will come back to this item at a later time.

Section 16.15 – a site plan showing the proposed runs will be submitted to the PC prior to the March meeting. Regarding the Special Performance Standards, Deputy Wayne Kalchik will verify that these standards have been met. A condition to be placed is that there will be compliance with the animal control officer at all times.

Ms. Oosse stated that Deputy Kalchik informed her that “habitual” can mean up to ½ hour in duration. Simpson stated that this is where we could set the standard. Cypher read the definition of “habitual” from the Black’s Law Dictionary; it is defined as “usual; commonly used; regularly or repeatedly doing something; the nature of a habit”.

Mitchell stated that if the PC does not define “habitual” now, we could potentially spend quite a bit of money on legal services later so the definition must be made clear before proceeding.

Cypher reiterated the suggestion that a sound engineer could be hired to conduct a study to determine the ambient noise level at the property line. The sound engineer could provide both the ambient noise level and the decibel level. Cypher added that the level that is set as the threshold is what will trigger a citation; he will check on the state of Michigan standards before the next meeting.

The PC discussed that they can place conditions on a property and this can include a sunset clause.

Cypher stated that the ordinance and fee structure allow the PC to set an escrow account for professional services that may be required in the future.

Cypher stated that Leland Township has a maximum fence height of five feet but he has seen dogs jump over a fence of this height. As Ms.

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Oosse stated in her presentation, the property will feature a double fence system.

Sullivan inquired if the runs will be paved. Ms. Oosse stated that the runs will indeed be paved.

According to the ordinance, dog excrement will be placed in the trash receptacles and “cannot be detectable beyond lot lines”. A condition could be placed which states, “...shall not be detectable”. Ms. Oosse will check with Deputy Kalchik on this standard. She was asked to contact GFL to see if they would drive their truck down the driveway to pick up trash so the receptacles do not have to be placed out near the road as this could result in complaints from walkers.

Section 21.03 – Nine spaces are needed for parking. This number includes parking spaces for handicapped persons as well as for employees. Cypher stated that Ms. Oosse must also show the parking spaces on the revised site plan for lighting and insulation.

The PC continued their discussion of section 16.01 – General Standards. Mitchell stated that when he spoke to a kennel owner, he was told that this proposed special land use application would not be approved today. Many years ago, this would be grandfathered in but not in the present day. Cypher and Sullivan reiterated that they will prepare some recommendations to share at the next meeting.

Cypher asked the group to consider the number of dogs that would be permitted. Sullivan stated that there may be standards that discuss the economic feasibility of operating a dog kennel.

Chairman Korson asked Ms. Oosse to consider the number of dogs that would be required from the start in order for the business to be economically feasible. Chairman Korson then closed the Public Hearing.

The PC assigned Cypher to procure bids for a sound study to be reviewed at the next meeting.

## VIII. Unfinished Business

1. Bunbury Zoning amendment – tabled to March 2, 2022 meeting

**AMENDED**

2. Master Plan – Sullivan stated that he would like the PC to indicate they are comfortable with the document detailing land use issues. Mitchell stated that he would like to see a version that is not redlined.
  3. Short Term Rentals – no report
- IX. Zoning Administrator Comments – nothing to report
  - X. Planning Commission Comment - no comment
  - XI. Public Comment (limited to three minutes per person unless extended by Chairman) – no public comment
  - XII. Adjournment

There being no objection, Chairman Korson adjourned the meeting at 10:45 p.m.

The next meeting is scheduled for Wednesday, March 2, 2022, at 7:00 p.m. at the Leland Township Library (Munnecke Room).

Respectfully submitted,  
Allison Hubley-Patterson  
Recording Secretary